

## **Senate Bill No. 1232**

### **CHAPTER 162**

An act to amend Sections 25502.1 and 25503.30 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor July 21, 2000. Filed with  
Secretary of State July 21, 2000.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

SB 1232, Chesbro. Alcoholic beverages: tied-house restrictions.

The Alcoholic Beverage Control Act contains limitations on sales commonly known as "tied-house" restrictions, which generally prohibit a manufacturer, winegrower, manufacturer's agent, California winegrower's agent, rectified, distiller, bottler, importer, or wholesaler from owning any interest in an on-sale or off-sale license, licensee, or licensed premises. Existing law contains various exemptions from this restriction on tied interests, including an exception permitting any winegrower, or its direct or indirect subsidiaries, as specified, to hold an ownership interest or financial or representative relationship in any on-sale license or the business conducted under that license, provided that certain conditions are met. These conditions include that the on-sale licensee purchases all alcoholic beverages sold and served only from California wholesale licensees, and that none of the persons falling under this exemption have an interest in more than two on-sale licenses.

This bill would permit wine sold under this exemption to be purchased from California winegrowers as well as from California wholesale licensees, and would provide that those direct sales may not involve more than 2 on-sale licenses in which the winegrower or any person holding an interest in the winegrower holds any interest, directly or indirectly, either individually or in combination or together with each other in the aggregate.

Existing law provides that for purposes of the "tied-house" provisions, the listing of the names, addresses, telephone numbers or e-mail addresses, or both, or web site addresses, of two or more unaffiliated off-sale retailers selling the products produced, distributed or imported by a nonretail industry member in response to a direct inquiry from a consumer received by telephone, by mail, by electronic Internet inquiry or in person does not constitute a thing of value or prohibited inducement to the listed off-sale retailer, if specified conditions are met.

This bill would make a technical correction to these provisions.

*The people of the State of California do enact as follows:*

SECTION 1. Section 25502.1 of the Business and Professions Code is amended to read:

25502.1. Notwithstanding Section 25502, the listing of the names, addresses, telephone numbers and/or e-mail addresses, or web site addresses, of two or more unaffiliated off-sale retailers selling the products produced, distributed and/or imported by a nonretail industry member in response to a direct inquiry from a consumer received by telephone, by mail, by electronic Internet inquiry or in person does not constitute a thing of value or prohibited inducement to the listed off-sale retailer, provided:

(a) The listing does not also contain the retail price of the product, and

(b) The listing is the only reference to the off-sale retailers in the direct communication, and

(c) The listing does not refer only to one off-sale retailer or only to off-sale retail establishments controlled directly or indirectly by the same off-sale retailer, and

(d) The listing is made by, and/or produced by, and/or paid for, exclusively by the nonretail industry member making the response.

For the purposes of this section, “nonretail industry member” is defined as a manufacturer, winegrower, distiller of alcoholic beverages, regardless of any other licenses held directly or indirectly by such person. Except as specifically provided above, any payment for, making or production, either directly or indirectly, listing the names, addresses, telephone numbers and/or e-mail addresses, or web site addresses, of off-sale retailers otherwise authorized by this section by a wholesaler or by a wholesaler that also holds an importer’s license shall constitute the furnishing of a thing of value or inducement to the listed off-sale retailers in violation of this division.

SEC. 2. Section 25503.30 of the Business and Professions Code is amended to read:

25503.30. (a) Notwithstanding any other provision of this division, a winegrower or one or more of its direct or indirect subsidiaries of which the winegrower owns not less than a 51-percent interest, who manufactures, produces, bottles, processes, imports, or sells wine and distilled spirits made from grape wine or other grape products only, under a winegrower’s license or any other license issued pursuant to this division, or any officer or director of, or any person holding any interest in, those persons may serve as an officer or director of, and may hold the ownership of any interest or any financial or representative relationship in, any on-sale license, or the business conducted under that license, provided that, except in the case of a holder of on-sale general licenses for airplanes and duplicate

on-sale general licenses for air common carriers, all of the following conditions are met:

(1) The on-sale licensee purchases all alcoholic beverages sold and served only from California wholesale licensees.

(2) The number of wine items by brand offered for sale by the on-sale licensee that are produced, bottled, processed, imported, or sold by the licensed winegrower or by the subsidiary of which the winegrower owns not less than 51 percent, or by any officer or director of, or by any person holding any interest in, those persons does not exceed 15 percent of the total wine items by brand listed and offered for sale by the on-sale licensee selling and serving that wine. Notwithstanding paragraph (1), wine sold pursuant to this provision may be purchased from a California winegrower so long as the wine purchased is produced or bottled by, or produced and packaged for, the same licensed winegrower that holds an interest in the on-sale license and such direct sales do not involve more than two on-sale licenses in which the winegrower or any person holding an interest in the winegrower holds any interest, directly or indirectly, either individually or in combination or together with each other in the aggregate.

(3) None of the persons specified in this section may have any of the interests specified in this section in more than two on-sale licenses.

(b) The Legislature finds that, while this section provides a limited exception for licensed winegrowers, that limited exception is granted for specific purposes, and that it is also necessary and proper that licensed winegrowers maintain the authority granted under this division to sell wine and brandy to any individual consumer or any person holding a license authorizing the sale of wine or brandy.

(c) The Legislature finds that it is necessary and proper to require a separation between manufacturing interests, wholesale interests, and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages produced by overly aggressive marketing techniques. The Legislature further finds that the exceptions established by this section to the general prohibition against tied interests must be limited to their express terms so as not to undermine the general prohibition, and the Legislature intends that this section be construed accordingly.

